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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 20th March, 1997:—

BILL NO. XVII OF 1997

A Bill to provide for the establishment of an Aquaculture Authority for regulating the activities connected with aquaculture in the coastal areas and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Aquaculture Authority Act, 1997.

(2) Provisions of section 24 shall come into force at once and the remaining provisions of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "aquaculture" means culturing under controlled conditions in ponds, pens and enclosures or otherwise of shrimp, prawn, fish or any other aquatic life in saline water but does not include fresh water aquaculture;

(*b*) "Authority" means the Aquaculture Authority established under sub-section (*1*) of section 3;

(*c*) "Chairperson" means the Chairperson of the Authority;

(*d*) "coastal area" means the area declared as the Coastal Regulation Zone for the time being in the notification of the Government of India in the Ministry of Environment and Forests No. S.O. 114(E), dated the 19th February, 1991 and includes such other area as the Central Government may, by notification in the Official Gazette, specify;

(*e*) "member" means a member of the Authority appointed under section 3 and includes the Chairperson and the member-secretary;

(*f*) "prescribed" means prescribed by rules made under this Act;

(*g*) "regulations" means regulations made by the Authority under this Act;

(*h*) words and expressions used herein and not defined but defined in the Environment (Protection) Act, 1986 shall have the meanings assigned to them in that Act. 29 of 1986.

CHAPTER II

THE AQUACULTURE AUTHORITY

Establishment of the Authority and appointment of Chairperson and members.

3. (*1*) **With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established for the purposes of this Act an authority to be called the Aquaculture Authority.**

(*2*) The head office of the Authority shall be at such place as the Central Government may decide.

(*3*) The Authority shall consist of the following members who shall be appointed by the Central Government, namely:—

(*a*) the Chairperson who has been a Judge of a High Court;

(*b*) one member who is an expert in the field of aquaculture;

(*c*) one member who is an expert in the field of pollution control;

(*d*) one member who is an expert in the field of environment protection;

(*e*) one member to represent the Ministry of Environment and Forests of the Central Government;

(*f*) one member to represent the Ministry of Agriculture of the Central Government;

(*g*) one member to represent the Ministry of Commerce of the Central Government;

(*h*) two members to represent the coastal States;

(*i*) one member-secretary.

(*4*) The term of office of the members shall be three years.

(*5*) **The salaries and allowances payable to, and other terms and conditions of service of the members shall be such as may be prescribed.**

4. A person shall be disqualified for being appointed as a member if he— Disqualifications for appointment as member.

(*a*) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or

(*b*) is an undischarged insolvent; or

(*c*) is of unsound mind and stands so declared by a competent country; or

(*d*) has been removed or dismissed from the service of the Government or a Corporation owned or controlled by the Government; or

(*e*) has, in the opinion of the Central Government, such financial or other interest in the Authority as is likely to affect prejudicially the discharge by him of his functions as a member.

5. Subject to the other terms and conditions of service as may be prescribed, any person ceasing to be a member shall be eligible for reappointment as such member. Eligibility of member for reappointment.

6. (*1*) The Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings, including the quorum thereat, as may be specified by regulations. Meetings of the Authority.

(*2*) If for any reason the Chairperson is unable to attend any meeting of the Authority any other member chosen by the members present at the meeting shall preside at the meeting.

(*3*) All questions which come up before any meeting of the Authority shall be decided by a majority of votes of the members present and voting, and in the event of an equality of votes, the Chairperson, or in his absence the person presiding, shall have and exercise a second or casting vote.

7. No act or proceeding of the Authority shall be invalidated merely by reason of— Vacancy in the Authority not to invalidate proceedings.

(*a*) any vacancy in, or any defect in the constitution of, the Authority; or

(*b*) any defect in the appointment of a person acting as a member of the Authority; or

(*c*) any irregularity in the procedure adopted by the Authority not affecting the merits of the case.

8. (*1*) **For the purpose of discharging its functions, the Authority shall appoint such number of officers and other employees as it may consider necessary on such terms and conditions as may be specified by the regulations.** Appointment of officers, consultants and other employees of the Authority.

(*2*) **The Authority may appoint, from time to time, any person as adviser or consultant as it may consider necessary, on such terms and conditions as may be specified by the regulations.**

9. All orders, decisions and other instruments of the Authority shall be authenticated under the signature of the Chairperson or any other member or any officer of the Authority authorised by it in this behalf. Authentication of orders and other instruments of the Authority.

CHAPTER III

POWERS AND FUNCTIONS OF THE AUTHORITY

10. (*1*) The Authority shall execise the following powers and perform the following functions, namely:— Functions of the Authority.

(*a*) to prescribe regulations for the construction and operation of aquaculture farms within the coastal areas;

(*b*) to inspect aquaculture farms with a view to ascertaining their environmental impact caused by aquaculture;

(*c*) to grant licences to aquaculture farms;

(*d*) to order removal or demolition of any aquaculture farm which is causing pollution after hearing the occupier of the farm;

(*e*) perform such other functions as may be prescribed.

(*2*) Where the Authority orders for removal or demolition of any aquacultue farm under clause (*d*) of sub-section (*1*), the workers of the said farm shall be paid compensation in accordance with the provisions of the Industrial Disputes Act, 1947. 14 of 1947.

Power to enter.

11. Subject to any rule made in this behalf, any person generally or specially authorised by the Authority in this behalf, may, whenever it is necessary to do so for any purposes of this Act, at all reasonable times, enter upon any aquaculture land, pond, pen or enclosure and—

(*a*) make any inspection, survey, measurement, valuation or inquiry;

(*b*) remove or demolish any structures therein;

(*c*) do such other acts or things as may be prescribed;

(*d*) Provided that no such person shall enter on any aquaculture land, pond, pen or enclosure without giving such occupier at least twenty four hours notice in writing of his intention to do so.

Licences for aquaculture farming.

12. (*1*) Save as otherwise provided in this section, no person shall carry on aquaculture farming in the coastal areas unless he holds a licence issued in this behalf by the Authority.

(*2*) Notwithstanding anything contained in sub-section (*1*), a person engaged in aquaculture farming immediately before the appointed day may continue to carry on such activity without such a licence for a period of six months from that day and if he makes an application for such licence under this sub-section within the said period of six months, till the communication to him of the order of the Authority disposing of such application.

(*3*) A licence issued under this section —

(*a*) shall be valid for a period of three years;

(*b*) may be renewed from time to time for a like period; and

(*c*) shall be in such form and shall be subject to such conditions as may be specified by regulations.

(*4*) A person who intends to carry on acquaculture farming shall make an application in such form and on payment of such fees as may be prescribed for the issue of a licence.

(*5*) No application for the issue of a licence to commence any activity connected with aquaculture farming shall be granted unless the Authority after making such enquiry as it thinks fit is satisfied that the grant of such licence shall not be detrimental to the coastal environment.

(*6*) No licence shall be granted for aquaculture farming proposed to be carried out within two hundred metres from the High Tide Line:

Provided that in case of creeks, rivers and backwaters, no such licence shall be granted within the Coastal Regulation Zone declared for the time being under the Environment (Protection) Act, 1986: 29 of 1986.

Provided further that nothing in this sub-section shall apply in the case of an aquaculture farm which is in existence on the appointed day.

Explanation.—For the purposes of this sub-section, "High Tide Line" means the line on the land upto which the highest water line reaches during the spring tide.

(*7*) No application for renewal of a licence for carrying on any activity connected with aquaculture farming shall be rejected unless the holder of such licence has been given a reasonable opportunity of presenting his case.

(*8*) Every person to whom a licence has been issued or renewed under this section shall comply with the terms and conditions specified in the licence and the provisions of the Act and the rules, regulations and orders made thereunder.

Explanation.—For the purposes of this section, "appointed day" means the date of establishment of the Authority.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

Payment to the Authority.

13. The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Authority in each financial year such sums as may be considered necessary for the performance of functions of the Authority under this Act.

Fund of the Authority.

14. (*1*) The Authority shall have its own Fund and all sums which may, from time to time, be paid to it by the Central Government and all the receipts of the Authority (including any sum which any State Government or any other authority or person may hand over to Authority) shall be credited to the Fund and all payments by the Authority shall be made therefrom.

(*2*) All moneys belonging to the Fund shall be deposited in such banks or invested in such manner as may, subject to the approval of the Central Government, be decided by the Authority.

(*3*) The Authority may spend such sums as it thinks fit for performing its functions under this Act, and such sums shall be treated as expenditure payable out of the Fund of the Authority.

Budget

15. The Authority shall prepare, in such form and at such time each year as may be prescribed, a budget in respect of the financial year next ensuing showing the estimated receipts and expenditure, and copies thereof shall be forwarded to the Central Government.

Annual report

16. The Authority shall prepare once every year, in such form and at such time as may be prescribed on annual report giving a true and full account of its activities during the previous year and copies thereof shall be forwarded to the Central Government and that Government shall cause the same to be laid before both Houses of Parliament.

Accounts and audit.

17. (*1*) The Authority shall cause to be maintained such books of account and other books in relation to its accounts in such form and in such manner as may, in consultation with the Comptroller and Auditor-General of India, be prescribed.

(*2*) The Authority shall, as soon as may be, after closing its annual accounts prepare a statement of accounts in such form, and forward the same to the Comptroller and Auditor-General of India by such date, as the Central Government may, in consultation with the Comptroller and Auditor-General, determine.

(*3*) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such times and in such manner as he thinks fit.

(*4*) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before both Houses of Parliament.

CHAPTER V

MISCELLANEOUS

Members, officers and other employees of the Authority to be public servants.

18. The Chairperson and other members and the officers and other employees of the Authority shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Protection of action taken in good faith.

19. No suit, prosecution or other legal proceeding shall lie against the Central Government or against the Chairperson or other members of the Authority or any other person authorised by the Chairperson or other members for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Power to remove difficulties.

20. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of the period of two years from the date of the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Power of the Central Government to make rules.

21. (*1*) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(*a*) the terms and conditions of the service of the members under sub-section (6) of section 3;

(*b*) the terms and conditions for reappointment of a member under section 5;

(*c*) to perform such other functions by the Authority under sub-clause (*e*) of subsection (*1*) of section 10;

(*d*) the application form and fee for grant of licence under sub-section (*4*) of section 12;

(*e*) the conditions and restrictions with respect to the exercise of the power to enter under section 11 and the matters referred to in clause (*c*) of that section;

(*f*) the form in which and the time within which the Authority shall prepare its budget under section 15 and its annual report under section 16;

(*g*) the manner in which the accounts of the Authority shall be maintained and audited and the date before which the audited copy of the accounts together with the auditor's report thereon shall be furnished to the Central Government under section 17;

(*h*) any other matter which is required to be, or may be, prescribed.

Power of the Authority to make regulations.

22. (*1*) The Authority may, by notification in the Official Gazette, make regulations not inconsistent with the provisions of this Act, and the rules generally to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(*a*) the time and places of the meetings of the Authority and the procedure to be followed for the transaction of business at such meetings;

(*b*) the terms and conditions of service, method of recruitment and the remuneration of the officers and other employees appointed by the Authority;

(*c*) the terms and conditions, method of appointment of any person as adviser or consultant;

(*d*) the form and conditions subject to which a licence may be granted under clause (*c*) of sub-section (*3*) of section 12;

(*e*) generally for better regulation of the aquaculture farming.

Rules and Regulations to be laid before Parliament.

23. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Validation.

29 of 1986.

24. (*1*) Notwithstanding anything contained in clause (*v*) of sub-section (*2*) of section 3 of the Environment (Protection) Act, 1986 or clause (*d*) of sub-rule (*3*) of rule 5 of the Environment (Protection) Rules, 1986, in the notification of the Government of India in the Ministry of Environment and Forests No. S.O. 114(E), dated the 19th February, 1991 (hereinafter referred to in this section as the said notification), in paragraph 2, after sub-paragraph (*xiii*), the following sub-paragraph shall be inserted and shall always be deemed to have been inserted with effect from the 19th day of February, 1991, namely:—

"(*xiv*) nothing contained in this paragraph shall apply to aquaculture.".

(*2*) The said notification shall have and shall be deemed always to have effect for all purposes as if the foregoing provisions of this section had been in force at all material times and accordingly notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, no aquaculture farming carried on or undertaken or purporting to have been carried on or undertaken shall be deemed to be in contravention of the said notification and shall be deemed to be and to have always been for all purposes in accordance with law, as if the foregoing provisions of this section had been in force at all material times and notwithstanding anything as aforesaid and without prejudice to the generality of the foregoing no suit or other proceeding shall be maintained or continued in any court for the enforcement of any direction given by any court of any decree or order directing the removal or closure of any aquaculture farms activity or demolition of any structures connected thereunder which would not have been so required to be removed, closed or demolished if the foregoing provisions of this section had been in force at all material times.

STATEMENT OF OBJECTS AND REASONS

The Supreme Court in Writ Petition (Civil) No. 561/1994 has held that aquaculture is an industry and hence it is covered by the prohibition imposed by sub-paragraph (i) of paragraph 2 of the notification of the Government of India in the Ministry of Environment and Forest S.O. 114(E) dated 19.2.1991 issued under sub-section (1) of section 3 of the Environment (Protection) Act, 1986 read with rule 5(3)(d) of the Environment (Protection) Rules, 1986. The Supreme Court has further directed that an Aquaculture Authority shall be established to regulate aquaculture farming in the coastal areas. The intention of the Government was not to treat coastal aquaculture as a prohibited aquaculutre within the meaning of the said notification. The effect of this judgment is to close all the aquaculture farms, except the traditional and improved traditional, in the coastal areas. This activity mainly utilizes saline areas along the coast-line which areas are not suitable for other activity and provides employment to approximately three lakh workers. Large investment of public and private funds has also been made in this farming/activity. If these farms are closed down, it may lead to about three lakh workers being rendered unemployed. Hence, it is considered necessary to bring this Bill to save the employment of the workers and also the investment already made in this economic activity. It is also considered necessary to provide for future growth of aquaculture farming in a manner which is consistent with the requirement of safeguarding of the environment. In order to achieve the above objects and to clear all doubts, it has been decided to amend the said notification to clarify that aquaculture was not intended to be a prohibited activity within the meaning of that notification. Since it is necessary to validate all coastal aquaculture farms set up hitherto retrospectively, this legislation has become necessary. It is also proposed to set up an Aquaculture Authority to review the cases of existing aquaculture farms and ensure that only those which carry on aquaculture farming in an eco-friendly manner will be allowed to continue. All cases where aquaculture farms are ordered to be closed, a provision has also been made for payment of compensation to workmen in accordance with the provisions of the Industrial Disputes Act, 1947.

The Bill seeks to achieve the above objects.

CHATURANAN MISHRA.

FINANCIAL MEMORANDUM

Sub-clause (1) clause 3 of the Bill provides for the establisment of an Aquaculture Authority and sub-clause (6) of the said clause relates to the salaries and allowances of the Chairperson and other members of the Authority. Clause 8 *inter alia* provides for the salaries and allowances of the officers and other employees of the Authority.

2. It is estimated that the Bill, when enacted, will involve a non-recurring expenditure of rupees forty lakhs and nine thousand and recurring expenditure of rupees eithty-nine lakhs and fifty-three thousand during every financial year.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 21 of the Bill empowers the Central Government to make rules to carry out the provisions of the Bill. The matters in respect of which rules may be made, *inter alia* includes the terms and conditions of the appointment of the members, procedure to be followed by members in the discharge of their functions, the inspection of the aquaculture farms, the form and manner in which the budget and reports are to be prepared by the Authority and the manner in which the accounts of the Authority are to be maintained.

2. Clause 22 of the Bill empowers the Authority to make regulations consistent with the provisions of the Bill and the rules made thereunder. The matters in respect of which regulations may be made, *inter alia* relate to regulating the meetings of the authority and the procedure for conducting business thereat, the terms and conditions of service of the officers and employees of the Authority, regulations for the construction and operation of aquaculture farms within the coastal areas.

3. The matters in respect of which the rules or regulations may be made are matters of procedure and administrative detail. The delegation of legislation powers is thus of a normal character.

V. S. RAMA DEVI,
Secretary-General.

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